IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

WP(C).No. 19637 of 2007(K)

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AGAINST THE ORDER DATED 21/06/2007 IN IA. 690 /2007 IN OS.127/2005 of MUNSIFF COURT, NADAPURAM

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PETITIONER: PETITION IN I.A.690/07 & 691/07/PLAINTIFF

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KAMMANOL JAMEELA,
MEETHALE AMBIDATTIL, EDECHERRY AMSOM,
DESOM, VATAKARA TALUK, KOZHIKODE DISTRICT.

BY ADV. SRI.R.PARTHASARATHY

RESPONDENTS: RESPONDENT/DEFENDANT

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VELIYAPOYIL POKKEN,
PATICHIL HOUSE, KAYAKKODI AMSOM,
NIDUMANNUR DESOM, VADAKARA TALUK,
KOZHIKODE DISTRICT.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**M.N.KRISHNAN,J**

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**W.P.(C) NO.19637 of 2007**

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Dated this the 27th day of June, 2007

**JUDGMENT**

This writ petition is filed seeking to set aside the order Ext.P7 passed in O.S.127/2005. This was an application for amendment of the plaint in tune with the plan and report submitted by the Commissioner. The plaintiff wanted to amend the plaint in accordance with the final Commissioner's plan and report, wherein it is stated the survey number is RS 343/1 and a portion of 352. The question whether the plaintiff is entitled the property by virtue of the document is a matter that can only be considered by the court after evidence. Even if the court finds at a later stage that the plaintiff's document covers this property, unless there is a proper schedule, the court will not be able to proceed with further. Just because the amendment is allowed, it will not take away any valid right of the defendant and he can raise his claim by filing additional written statement. Therefore

the writ petition is allowed and the order under challenge is set aside and the amendment allowed. The trial court is directed to permit the petitioner to carry out the amendment within a reasonable period and thereafter permit the defendants to file additional written statement and dispose of the matter, in accordance with law.

**M.N.KRISHNAN, JUDGE**

CSS